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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/685,398	10/10/2000	James Richard Kraemer	RSW9-2000-0107-US1	7911

7590 04/09/2007
 Esther H. Chong, Esquire
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 2600 Aramark Tower
 1101 Market Street
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EXAMINER

HAMILTON, LALITA M

ART UNIT	PAPER NUMBER
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3691

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/685,398	KRAEMER, JAMES RICHARD	
	Examiner	Art Unit	
	Lalita M. Hamilton	3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Request for Continued Examination (RCE)

The RCE filed on March 6, 2007 has been processed. A non-final follows.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bove (7,149,713) in view of Jones (7,016,870).

Bove discloses a method and corresponding system for automatically rebalancing a portfolio comprising a list comprising at least one recommended rebalancing transactions, each recommended rebalancing transaction comprising asset information identifying a specific asset, quantity information identifying a specific number of units of the specific asset, and transaction information comprising one of a buy instruction and a sell instruction, and automatically implementing the list comprising

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at least one of recommended rebalancing transactions based on the received customer's response to cause execution of each recommended rebalancing transaction (col.1, line 55 to col.2, line 40; col.3, line 15 to col.5, line 10; and col.11, line 65 to col.13, line 5); the list comprising at least one of recommended rebalancing transactions to the customer via a second customer-defined communications method if the step of transmitting via the first communications method was not successfully executed (col.1, line 55 to col.2, line 40; col.3, line 15 to col.5, line 10; and col.11, line 65 to col.13, line 5); the customer's response constitutes performing a single action by the customer (col.1, line 55 to col.2, line 40; col.3, line 15 to col.5, line 10; and col.11, line 65 to col.13, line 5); the single action comprises one of the following: pressing a button, touching a portion of a screen, or speaking a sound (col.1, line 55 to col.2, line 40; col.3, line 15 to col.5, line 10; and col.11, line 65 to col.13, line 5); verifying the identify of the customer prior to the implementing step (col.1, line 55 to col.2, line 40; col.3, line 15 to col.5, line 10; and col.11, line 65 to col.13, line 5); the verifying step is performed automatically by a computer system (col.1, line 55 to col.2, line 40; col.3, line 15 to col.5, line 10; and col.11, line 65 to col.13, line 5); and generating execution instructions based on the list comprising at least one of recommended rebalancing transactions; and transmitting the execution instructions to an electronic trading system, whereby each respective transaction of the list comprising at least one of recommended rebalancing transactions is executed electronically (col.1, line 55 to col.2, line 40; col.3, line 15 to col.5, line 10; and col.11, line 65 to col.13, line 5). Bove does not disclose transmitting an alert message via the customer's chosen communication method. Jones teaches a

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method and corresponding system for portfolio rebalancing comprising transmitting an alter message via the customer's chosen communication method concerning rebalancing of the portfolio (col.27, lines 25-30, 50-55 and col.28, lines 30-38). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate transmitting alerts to the customer via their chosen communication method, as taught by Jones into the invention disclosed by Bove, for the motivation of alerting the customer that the chosen automatic rebalancing method is about to be executed.

Response to Arguments

Applicant's arguments with respect to claims 1-31 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lalita M. Hamilton whose telephone number is (571) 272-6743. The examiner can normally be reached on Tuesday-Thursday (6:30-2:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kalinowski Alexander can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



LALITA M. HAMILTON
PRIMARY EXAMINER